

## 7A Am. Jur. 2d Automobiles § 19

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### Automobiles and Highway Traffic

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### I. In General


#### C. Regulation, in General

#### 2. Who May Regulate Motor Vehicles

## § 19. State regulation

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### West's Key Number Digest

West's Key Number Digest, [Automobiles](#)  5(1)

The operation of a motor vehicle upon the public highways is not a fundamental right, but only a privilege.<sup>1</sup> Under its police power, the state may control generally the operation of motor vehicles upon a public highway.<sup>2</sup> State legislatures, by virtue of their inherent police powers and plenary jurisdiction over public ways, may enact reasonable regulations governing the conduct of the owners and drivers of vehicles operated thereon,<sup>3</sup> and calculated to promote care on the part of highway users,<sup>4</sup> which regulations may extend to nonresidents as well as residents.<sup>5</sup> In regulating the use of public highways, the state has traditionally been afforded exceptionally broad discretion.<sup>6</sup>

In the exercise of its power to regulate and control the public highways, a state legislature may prohibit the use on the highways of such vehicles as are dangerous to the general traveling public.<sup>7</sup> The legislature cannot, however, prevent citizens from using the public highways in the ordinary manner, and the fact that the vehicle used for the movement of persons or things along the highways is novel will not justify its exclusion.<sup>8</sup>

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### Footnotes

<sup>1</sup> § 11.

- 2 Zack's, Inc. v. City of Sausalito, 165 Cal. App. 4th 1163, 81 Cal. Rptr. 3d 797 (1st Dist. 2008); Cohen v. City of Hartford, 244 Conn. 206, 710 A.2d 746 (1998); D'Ambrosio v. State, 245 Ga. App. 12, 536 S.E.2d 218 (2000).
- 3 As to the source of police power, generally, see Am. Jur. 2d, Constitutional Law § 332.
- 3 Snively v. City of Huntsville, 785 So. 2d 1162 (Ala. Crim. App. 2000); Agomo v. Fenty, 916 A.2d 181, 26 A.L.R.6th 767 (D.C. 2007); People v. Blackorby, 146 Ill. 2d 307, 166 Ill. Dec. 902, 586 N.E.2d 1231 (1992); Tapp v. Perciful, 2005 OK 49, 120 P.3d 480 (Okla. 2005); Shumpert v. South Carolina Dept. of Highways and Public Transp., 306 S.C. 64, 409 S.E.2d 771 (1991).
- 4 Hadden v. Aitken, 156 Neb. 215, 55 N.W.2d 620, 35 A.L.R.2d 1003 (1952) (overruled in part on other grounds by, Stauffer v. Weedlun, 188 Neb. 105, 195 N.W.2d 218 (1972)); Matter of Hansen, 298 N.W.2d 816 (S.D. 1980).
- 5 Wuchter v. Pizzutti, 276 U.S. 13, 48 S. Ct. 259, 72 L. Ed. 446, 57 A.L.R. 1230 (1928); State v. Justesen, 63 Or. App. 544, 665 P.2d 380 (1983).
- 6 As to application of regulations to vehicles in interstate traffic, see § 28.
- 6 State v. French, 77 Haw. 222, 883 P.2d 644 (Ct. App. 1994); People v. Blackorby, 146 Ill. 2d 307, 166 Ill. Dec. 902, 586 N.E.2d 1231 (1992).
- 7 Commonwealth v. Kingsbury, 199 Mass. 542, 85 N.E. 848 (1908).
- 8 People v. Rosenheimer, 209 N.Y. 115, 102 N.E. 530 (1913).

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